

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Veronica McNeal,	)	Civil Action No.: 8:09-2341-TLW-BHH
	)	
Plaintiff,	)	
	)	
vs.	)	<b><u>REPORT AND RECOMMENDATION</u></b>
	)	<b><u>OF MAGISTRATE JUDGE</u></b>
Detective Todd Strange;	)	
Deputy Doe;	)	
Deputy Roe,	)	
	)	
Defendants.	)	

On September 3, 2009, the Plaintiff, Veronica McNeal, who is represented by counsel filed this action pursuant to 42 U.S.C. § 1983. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure service of the summons and complaint must be made within 120 days of the date the complaint is filed. Fed. R. Civ. P. 4(m). In this case, the action was filed on September 3, 2009, and service should have been accomplished by January 5, 2010.

By order of this Court filed January 11, 2010, the Plaintiff was advised of this deadline and given until January 21, 2010, to file proof of timely service. (Dkt. # 15.) Upon receiving this order, the Plaintiff's counsel advised the court that service had been attempted, but was not successful. Further, counsel stated he would try to serve the Defendants within ten days and advise the court regarding this service. Absent any filings or other notice, another order of this Court was issued on February 2, 2010, advising the Plaintiff that proof of service needed to be filed by February 12, 2010, and that pursuant to Rule 4(m), Fed.R.Civ.P., failure to show proper service could result in dismissal of this action. (Dkt. #16.) To date, the Plaintiff has failed to provide the Court with evidence that service has been accomplished.

Rule 4(m) specifically provides, in part, that:

If a defendant is not served within 120 days after the complaint is filed, the court-on motion or on its own after notice to the plaintiff-must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

As the Plaintiff has not shown that the Defendants in this action have been timely served or good cause for the failure to serve, it is recommended that this action be dismissed without prejudice.

s/Bruce Howe Hendricks  
United States Magistrate Judge

February 22, 2010  
Greenville, South Carolina